

Insurance Legislation in 2001

House Bills

HB 153 (PA 92-0099)—effective 7/20/01—amends 215 ILCS 150/2, 150/6, and 150/15 of the Religious and Charitable Risk Pooling and Trust Act to authorize organizations exempt from taxation under paragraph (2) of subsection (c) of Section 501 of the Internal Revenue Code to be a beneficiary under a risk pooling trust.

HB 1040 (PA 92-0135)—effective 1/1/02—amends the Health Maintenance Organization (HMO) Act to authorize an HMO to offer **point-of-service (POS) benefits** and to establish capital requirements on a sliding scale basis. Specifically, an HMO that offers a POS product must maintain minimum net worth not less than:

- the greater of 300% of the authorized risk based capital requirements (in accordance with Article IIA of the Illinois Insurance Code); or
- \$3.5 million if the HMO's annual projected out-of-plan claims are less than \$500,000; or
- \$4.5 million if the HMO's annual projected out-of-plan claims are equal to or greater than \$500,000 but less than \$1 million; or
- \$6 million if the HMO's annual projected out-of-plan claims are \$1 million or greater.

This sliding scale will ensure that an HMO maintains the appropriate net worth as it offers more POS benefits. In an HMO, generally the costs of providing service are known because the HMO negotiates the fees with “contracted” providers. However, for out-of-plan services the costs are paid based upon the “usual and customary” charges in that locale. House Bill 1040 makes other changes.

HB 1041 (PA 92-0458)—effective 8/22/01—amends the Illinois Vehicle Code with regard to **driver licenses**. This legislation provides that out-of-state offenses are taken into account when determining whether a suspended or revoked license is subject to a \$250 reinstatement fee.

House Bill 1041 requires the Secretary of State to maintain records relative to dispositions of court supervision. This legislation also amends the Unified Code of Corrections to provide that a defendant placed on court supervision for failure to show proof of insurance must maintain proof of insurance after the supervision has been revoked.

House Bill 1041 extends from 30 days to 45 days the time which an insurance company has to respond to a request by the Secretary of State for information regarding whether a driver is covered by liability insurance. The bill amends the Illinois Vehicle Code to remove the requirement that a licensed vehicle dealer that offers, provides, or sells in-house and/or self-insured extended warranties or service contracts, other than those of the vehicle manufacturer, must retain adequate reserves or insurance for the protection of the purchasing consumer.

HB 1901 (PA 92-0106)—effective 1/1/02—creates the Uniform Health Care Service Benefits Information Card Act to require health benefit plans (that provide coverage for health care services including prescription drugs or devices) to issue **uniform health care benefit information cards** (or other technology). House Bill 1901 mandates that the health benefit plan include the following specific information on the card: the processor control number (if required), group number, card issuer identifier, cardholder ID number and the cardholder name.

The requirements of this Act are applicable to both individual and group health benefit plans written by insurers, health maintenance organizations, voluntary health services plans and multiple employer welfare arrangements, as well as administrators of these plans. House Bill 1901 would also be applicable to administrators of self-insured and state administered plans.

HB 2380 (PA 92-0479)—effective 1/1/02—amends the Public Construction Bond Act, the Counties Code, and the Illinois Municipal Code to provide that a builder or developer may not be required by a county or municipality to post an irrevocable letter of credit, surety bond, or letter of commitment by a bank to guarantee a project's completion if the developer or builder already has such a bond on file with a county or municipality. This legislation requires a county or municipality to accept **surety instruments** from a surety insurance company that is authorized by the Department of Insurance to sell sureties.

House Bill 2380 exempts a municipality or county with a population of 1,000,000 or more from the requirement that a municipality must approve and deem sufficient a surety or insurance company authorized by the Department of Insurance. House Bill 2380 also preempts home rule.

HB 2419 (PA 92-0480)—effective 10/1/01—amends the Illinois Insurance Code to provide that for policies of personal lines property and casualty insurance (automobile, fire and homeowners), but excluding fidelity and surety insurance, an insurance company authorized to do business in Illinois may not refuse to issue or renew a policy of insurance solely on the basis of a **credit report**.

House Bill 2419 defines “credit report” as a collection of data regarding a consumer’s credit history, credit capacity, or credit worthiness that has been assembled or evaluated by a consumer reporting agency defined in the federal Fair Credit Reporting Act.

House Bill 2419 further provides that if a credit report is used in conjunction with other criteria to underwrite an application or renewal of a policy of insurance, it may not include or be based upon race, income, gender, religion, or national origin of the applicant or insured

House Bill 2419 specifically requires the insurer to provide the applicant or policyholder with notice of the underwriting decision if it is determined in conjunction with a credit report. Compliance with the notification requirements of the federal Fair Credit Reporting Act shall be considered compliance with the notification requirements of House Bill 2419.

HB 2554 (PA 92-0139)—effective 7/24/01—amends Section 215 ILCS 5/224(l) of the Illinois Insurance Code to indicate that **interest** shall accrue on proceeds **payable** because of the **death of the insured** at the rate of 9% per year on the total amount payable or face amount unless payment is made within 15 days from the date of receipt by the company of due proof of loss. Currently, the statute indicates that interest shall accrue at 6% annually.

House Bill 2554 also amends Section 215 ILCS 5/357.9a of the Illinois Insurance Code to indicate that **interest** shall be **payable** at the rate of 9% per year from the 30th day after receipt of proof of loss to the date of late payment for loss-of-time (**disability**) coverage under accident and health insurance. Currently, the statute indicates that interest shall accrue at 8% annually.

HB 2556 (PA 92-0140)—effective 7/24/01—is an initiative of the Department of Insurance to **strengthen the corporate governance** of insurance companies and health maintenance organizations, including a requirement for a certain number of outside board of directors and stipulation of rules for the handling of cash and assets between companies.

House Bill 2556 prohibits privately held HMOs from making loans to company officers or directors, or to any other person with financial interest, to the HMO without Department approval. According to this change, an officer or director would not have financial interest by reason of an interest that is held through the ownership of equity interests representing less than 2% of all outstanding equity interests issued by a person party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is party to the transaction.

House Bill 2556 also amends the provisions of law that regulate companies formed under the insurance **holding company system**. Current law requires prior notification (to the Department) of certain transactions between a domestic insurance company and any person in its holding company system. The new law requires prior notification for transactions involving the transfer of assets from or liabilities to a domestic insurance company that is not eligible to declare and pay a dividend or other distribution pursuant to the provisions of 215 ILCS 5/27.

House Bill 2556 also amends Article XIII, Rehabilitation, Liquidation, Conservation and Dissolution of Companies, to expand the definition of "company" to include, but not limit it to, entities or persons which provide management, administrative, accounting, data processing, marketing, underwriting, claims handling or any other similar services to that insurer, regardless of whether the person is licensed to engage in the business of insurance in Illinois, if such entity or person is an affiliate of that insurer.

The new law also provides that when the Director finds a "company" is engaged in any aspect of insurance business on behalf of or in association with any domestic insurance company in receivership in a manner that is harmful to policyholders, creditors, members, shareholders or the public, the Director may report the case to the Illinois Attorney General. It is the obligation of the Attorney General to apply for an order with the court to name the Director as receiver to assume control of the assets and operation of the company pending a complete investigation and determination of the rights of the harmed parties.

HB 2994 (PA 92-0386)—effective 1/1/02—replaces the current **producer licensing law** in the Illinois Insurance Code with a new licensing law modeled after the National Association of Insurance Commissioners (NAIC) model, while maintaining portions of Illinois' law not addressed by the NAIC model. Among the key provisions of the Illinois law are:

- Provides for reciprocity in the licensure of nonresidents by permitting them to obtain an Illinois license if they are currently licensed as a resident (in good standing) in their own state, have paid the required fees for licensure in Illinois, and have provided Illinois with a copy of their application for a license in their home state; and if their home state reciprocally grants nonresident licenses to residents of Illinois.
- Exempts persons who are currently licensed in another state from having to take an Illinois examination and meeting pre-licensing education requirements.
- Authorizes the Director to waive any requirements for nonresident license applicants who have a valid license from their home state if their home state awards nonresident licenses to Illinois residents on the same basis.

The need for a multistate uniform and reciprocal system in producer licensing originated out of the federal Gramm-Leach-Bliley Act (GLBA) which seeks to enhance competition in the financial services industry by providing a framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and to provide state flexibility in multistate insurance licensing reforms.

GLBA requires a minimum of 29 states to enact, by November 2002, either uniform agent licensing laws and regulations or reciprocity laws and regulations governing the licensure of non-resident agents or face national licensing standards established by a newly created National Association of Registered Agents and Brokers (NARAB). At enactment of the Illinois law, 35 states had passed laws designed to satisfy the GLBA requirements.

House Bill 2994 requires that a **surplus lines producer** must complete a prelicensing course of study in lieu of passing a written examination. This legislation also provides that the submission of insurance contract information by surplus line producers and the countersignature by the Surplus Line Association of Illinois may be performed electronically. The legislation requires that each surplus line producer must maintain electronic or paper copies of surplus line insurance contracts which shall be open at all times for inspection by the Director and the Surplus Line Association of Illinois.

HB 3004 (PA 92-0153)—effective 7/25/01—is an initiative of the Comprehensive Health Insurance Plan (CHIP) that extends to 90 days (from 63 days) the number of days in which an individual may apply for **HIPAA CHIP**. House Bill 3004 also provides that a federally eligible individual is not deemed ineligible simply because they are eligible for coverage under part A or part B of Medicare if the eligibility is not due to age.

HB 3179 (PA 92-0296)—effective 1/1/02—amends the Consumer Fraud and Deceptive Business Practices Act to prohibit the marketing and sale of discount programs which do not meet the standards of the Act. This legislation requires that a **cash-discount card** must expressly provide in bold and prominent type that the discounts being offered are not insurance. The discounts offered must be specifically authorized by a contract with each health care provider listed in conjunction with the card. The associated discounts cannot be misleading, deceptive, or fraudulent regardless of the literal wording that is used on the card.

Senate Bills

SB 42 (PA 92-0430)—effective 8/17/01—amends the Genetic Information Privacy Act to prohibit insurers and employers from using information derived from **genetic tests**, regardless of the source of the information, for nontherapeutic purposes in connection with a policy of accident and health insurance.

SB 319 (PA 92-0182)—effective 7/27/01—amends the Illinois Insurance Code (215 ILCS 5/370c) to require reimbursement by insurance companies for services performed by **licensed clinical professional counselors**. Current law provides that each insured covered for mental, emotional, or nervous disorders or conditions shall be free to select a physician licensed to practice medicine in all its branches, a licensed clinical psychologist, or a licensed clinical social worker of their choice for treatment of these disorders; and the insurer is required to pay the coverage for these services if the condition is covered under the policy.

SB 333 (PA 92-0005)—effective 6/1/01—establishes a new section under Article XXXI of the Illinois Insurance Code to define “expirations” to be mutually and exclusively owned by the insured and the registered firm (which includes sole proprietorship). Under Senate Bill 333, **expirations** include all information related to an insurance policy including, but not limited to, the name and address of the insured, the location and description of the property insured, the value of the insurance policy, the date of expiration, the premiums, limits, terms, and coverage of the insurance policy, and any other confidential information compiled by an insurance producer or furnished by the insured to the insurer or agent, contractor, or representative of the insurer.

Exemptions to Senate Bill 333 include:

- life and health insurance policies;
- when the insured requests that the insurance company renew the policy or when the insured requests that another registered firm obtain quotes for insurance from another insurance company;
- the Illinois Fair Plan, the Illinois Automobile Insurance Plan, or the Illinois Assigned Risk Plan for workers' compensation coverage;
- an insurance producer who is a "captive" agent: i.e., employed by and has agreed to act exclusively for one company or group of affiliated insurance companies, or a producer who submits to the company or affiliated companies that are organized to transact business as a reciprocal company, every request or application for insurance for the lines of insurance underwritten by the company or group of companies.
- when the registered firm is in default for non-payment of premiums under contract with the insurer or is guilty of conversion of the insured's or insurer's premium or has had his license revoked by or surrendered to the Illinois Department of Insurance.

SB 461 (PA 92-0307)—effective 8/9/01—amends the Early Intervention Services Systems Act, Specialized Care for Children Act, Children's Health Insurance Program Act, and the Illinois Public Aid Code to provide that an **application for early intervention services** acts as an application for various services offered under these Acts. This legislation defines "qualified person" for the purpose of rendering early intervention services and would require the Department of Human Services as the lead agency to develop rules for credentialing providers.

Senate Bill 461 requires families to utilize their insurance coverage for early intervention services for dependents before seeking services from the state supported early intervention system. This legislation allows for certain exemptions in the use of a family's insurance coverage.

Senate Bill 461 provides that the system of payment for early intervention services be structured on a sliding scale based on family income. A family's coverage or lack of coverage under public or private insurance shall not be a factor in determining the amount of the fee. Senate Bill 461 makes other changes.

SB 463 (PA 92-0065)—effective 7/12/01—amends Article XIII, Rehabilitation, Liquidation, Conservation and Dissolution of Companies in 215 ILCS 5/205, Priority of Distribution of General Assets, to clarify the **treatment and priority of claims** that are subject to separate accounts in a receivership proceeding. This legislation provides that in receivership, the Director as Receiver, is obligated to consider an insurer's separate account assets as being subject only to those liabilities incurred as a result of the insurer's separate account business.

SB 864 (PA 92-0124)—effective 7/20/01—is a Department of Insurance initiative to authorize the creation of **Special Purpose Reinsurance Vehicles (SPRVs)** to facilitate the securitization of risk in Illinois under the regulatory oversight of the Department. Investors in fully funded insurance securitization transactions provide funds to the SPRV to secure the maximum possible exposure under a contract with a ceding insurer.

The Department of Insurance will be required to give prior written approval to an insurer's SPRV plan of operation. Senate Bill 864 provides the Department with rulemaking authority to implement the provisions of the Act and makes other changes.

SB 865 (PA 92-0074)—effective 7/12/01—is a Department of Insurance initiative that amends the **Protected Cell Companies** Article of the Insurance Code to adopt final revisions to the NAIC model act made subsequent to the enactment of the Illinois law.

Senate Bill 865 amends the purpose section of the current law to clarify that the transactions made are fully funded and defines “fully funded” to mean the assets of the protected cell must meet or exceed the maximum possible exposure to the protected cell. The bill defines “non-indemnity trigger” as a transaction term by which relief of the issuer’s obligation to repay investors is triggered solely by some event or condition other than the individual protected cell company incurring a specified level of losses under its insurance or reinsurance contracts.

Senate Bill 865 also amends Article V½ of the Insurance Code regarding Insurance Exchanges to address changes needed to facilitate future insurance securitization transactions through the INEX. The new law defines a “special purpose limited syndicate” as an entity formed for the purposes of participating in the securitization of insurance or reinsurance risk in accordance with rules of the exchange. The special purpose limited syndicated must have \$5,000 minimum capitalization.

SB 866 (PA 92-0048)—effective 7/3/01—amends the Insurance Code and the Health Maintenance Organization (HMO) Act to incorporate requirements of the federal **Women’s Health and Cancer Rights Act** of 1998 regarding reconstruction, symmetry, and prostheses for policies and plans which provide medical and surgical benefits for mastectomies.

SB 867 (PA 92-0148)—effective 7/24/01—is a Department of Insurance initiative that amends the **Long Term Care** Article of the Illinois Insurance Code to define “qualified long-term care insurance contracts” or “federally tax qualified long term care insurance contracts” to mean an individual or group insurance contract that meets the requirements of Section 7702(b) of the Internal Revenue Code of 1986.

Senate Bill 867 defines “qualified long-term care insurance contract” or “federally tax-qualified long-term care insurance contract” to mean the portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of Sections 7702B(b) and 7702B(e) of the Internal Revenue Code of 1986, as amended.

SB 869 (PA 92-0399)—effective 8/16/01—is a Department of Insurance initiative that amends the Illinois Insurance Code to **prohibit discrimination** on the basis of race, color, religion or national origin in the conduct of life and health insurance business. This legislation makes such discrimination a violation of the Unfair Methods of Competition and Unfair and Deceptive Acts and Practices Article of the Illinois Insurance Code. Senate Bill 869 provides that the remedies and protections provided by this legislation for life and health insurance do not limit remedies that are available under other provisions of the Illinois Insurance Code.

SB 870 (PA 92-0075)—effective 7/12/01—is a Department of Insurance initiative that amends various sections of the Insurance Code to provide the Department with the statutory standards to **release security deposits** when insurance companies wish to voluntarily dissolve and cease to engage in the business of insurance in Illinois. Under this legislation, the Department may release deposits upon: order of the court or upon certification by the insurance company that they have no outstanding creditors or policyholders/enrollees or policy obligations prior to the Department releasing the security deposit; receipt of lawful resolution from the board of directors surrendering articles of incorporation for administrative dissolution by the Director; and receipt of addresses of the final officers and directors of the company and a plan of dissolution approved by the Director.

SB 879 (PA 92-0233)—effective 1/1/02—is an initiative of the Department of Insurance and the Illinois **Insurance Fraud** Task Force to extend the requirements for reporting potential fraud to the Department to all lines of insurance and to application and premium fraud. The law grants the Director of Insurance with rulemaking authority to establish the reporting requirements for application and premium fraud information.

Senate Bill 879 also creates the Illinois Insurance Claims Fraud Prevention Act (**Whistle-blower Act**) to make it unlawful, except where otherwise permitted by law, to offer or pay to induce a person to procure clients or patients to obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured or the insurer. This legislation provides specific civil (monetary) penalties for violations of the Act—defendants could be fined \$5,000 to \$10,000 and assessed up to three times the amount of each claim for compensation under an insurance contract. In addition to the penalties enumerated in the Act, the court would not be precluded from providing other equitable relief. Further, Senate Bill 879 does not prevent a criminal prosecution for the same conduct.

Senate Bill 879 provides a monetary incentive to insurance companies, individuals, and local states' attorneys and the Attorney General to bring a civil suit against persons who seek to defraud insurance companies. The law provides protections and recompense to any employee who is discharged or otherwise discriminated against by an employer because of lawful acts performed in seeking action under this Act. Under Senate Bill 879, those bringing the action, including the state, share a percentage of the proceeds from the civil action.

SB 935 (PA 92-0440)—effective 8/17/01—amends the Illinois Insurance Code, State Employees Group Insurance Act, Preferred Provider and Third Party Administrator sections of the Insurance Code, the Comprehensive Health Insurance Plan Act, HMO Act, Limited Health Service Organization Act, and the Voluntary Health Services Plan Act to require companies to notify their insureds of changes to a **drug formulary**. Senate Bill 935 permits companies to post the changes on their websites in order to comply with this notification requirement.

SB 941 (PA 92-0077)—effective 7/12/01—amends the Illinois Insurance Code to increase from 1% to 2%, beginning January 1, 2002, the amount a member property and casualty company may be assessed on the company's net direct written premium for payment of the obligations of the **Illinois Property and Casualty Insurance Guaranty Fund**. The 2% maximum shall apply regardless of the date of any insolvency that gives rise to the need for the assessment. Senate Bill 941 makes other specific changes.

SB 943 (PA 92-0125)—effective 7/20/01—amends the Illinois Insurance Code with respect to premium reductions in **automobile insurance** for vehicles equipped with **anti-theft mechanisms** or devices by deleting the language that the rules promulgated shall include procedures for affidavit certification to insurers that anti-theft mechanisms and devices have been installed in insured vehicles.

SB 962 (PA 92-0002)—effective 5/1/01—amends the **Comprehensive Health Insurance Plan Act** to waive the six-month preexisting condition limitation under "traditional" CHIP, when an individual previously covered under an individual accident and health insurance policy loses coverage as a result of the insurer's insolvency.

Specifically, Senate Bill 962 provides for a waiver of the preexisting condition exclusions for an eligible person who has satisfied similar exclusions under a prior individual policy of health insurance that was terminated due to the insolvency of the insurer and who has applied for coverage with ICHIP within 63 days following the termination.

SB 989 (PA 92-0530)—effective 2/8/02—amends Intergovernmental Cooperation Act definition of "public agency" to include any public agency defined in or created under the Act, any local public entity as defined in the Local Governmental and Governmental Employees Tort Immunity Act, and any agency, authority, instrumentality, council, board, service region,

district, unit, bureau, commission, municipal corporation, college, or university, whether corporate or otherwise, and any other local governmental body or similar entity that is presently existing or created after the effective date of the amendatory Act. Senate Bill 989 stipulates that only public agency members with tax receipts, tax revenues, taxing authority, or other resources sufficient to pay costs and to service debt related to intergovernmental activities, or public agency members created by or as part of a public agency with these powers may enter into contracts in regard to joint self-insurance pools.

SB 1019 (PA 92-0126)—effective 1/1/02—amends the Employee Benefit Contribution Act to require an employer who has agreed to make payment to an **employee health insurance** plan to provide written notification directly to its employees of any failure to make payments if such failure may result in the loss of insurance coverage.

Previously, such notice was required to be posted in a conspicuous location at the place of employment. Senate Bill 1019 removes the Department of Insurance as the agency required to monitor the places of employment for compliance.

SB 1046 (PA 92-0518)—effective 6/1/02—replaces the Condominium Property Act provisions concerning **insurance for condominium associations** and risk pooling trust funds for condominium associations or common interest community associations. This legislation requires that a condominium association maintain property insurance, general liability insurance, and fidelity bond and liability coverage for directors and officers, and provides that a condominium association may require unit owners to obtain insurance coverage. The Director of Insurance is given authority to adopt reasonable rules pertaining to the standards of coverage and administration of risk pooling trust funds.

SB 1254 (PA 92-0130)—effective 7/20/01—amends the Illinois Insurance Code, the Health Maintenance Organization Act, and the Voluntary Services Act to require individual and group policies with maternity coverage to provide coverage for **prenatal HIV testing** ordered by an attending physician, physician assistant, or an advance practice registered nurse.

SB 1341 (PA 92-0185)—effective 1/1/02—amends the Illinois Insurance Code to **require** insurers to provide **coverage** on a group basis, to employers with greater than 50 employees, for **serious mental illness** on the same basis as other illnesses and diseases. The coverage must provide the same durational limits, amount limits, deductible and co-insurance amounts as is provided for other illnesses and diseases.

The definition of serious mental illness specifically limits the conditions covered under the Act to psychiatric illnesses defined in the most current edition of the Diagnostic and Statistical Manual (DSM) published by the American Psychiatric Association. These illnesses are schizophrenia, paranoid and other psychotic disorders, bipolar disorders (hypomanic, manic, depressive and mixed), major depressive disorders (single episode or recurrent), schizoaffective disorders (bipolar or depressive), pervasive developmental disorders, obsessive-compulsive disorders, depression in childhood and adolescence, and panic disorder.

Senate Bill 1341 also amends the Civil Administrative Code by adding Section 20 ILCS 1405/1405-30 to require the Department of Insurance to conduct an analysis and study for the years 2002, 2003, and 2004, of the costs and benefits derived from the implementation of Senate Bill 1341. The study shall include the results of treatments to patients, any improvements in care, and improvement to a patient's quality of life. This report is required to be filed with the General Assembly and the Governor on or before March 1, 2005.

SB 1505 (PA 92-0331)—effective 1/1/02—amends the Civil Administrative Code of Illinois to establish an **ombudsman program for the uninsured** within the Department of Insurance to provide assistance and education for uninsured individuals regarding health insurance benefit options, and rights under state and federal law. This legislation allows the Department to recruit and train volunteers to provide one-on-one counseling on health insurance matters.

Insurance Rulemaking in 2001

Rule 928 (Medical Malpractice Data Base) was amended January 1, 2001, to update the actual formal requirements for insurers to file medical malpractice information with the Department. Companies have the option to file claim information electronically using a comma delimited format or using the Microsoft Word software program developed by the Department. The Department prefers that claim information be filed electronically, but does not require it at this time.

Rule 2008 (Minimum Standards for Individual and Group Medicare Supplement Insurance) was amended January 1, 2001, to ensure that individuals who are involuntarily disenrolled from a Medicare HMO that withdraws from the market will have the same guarantees available to them as insureds who voluntarily disenroll.

Rule 922 (Retrospective Compensation Agreements) was repealed effective January 16, 2001. Section 141a of the Illinois Insurance Code [215 ILCS 5/141a] addresses the requirements for filing retrospective compensation agreements and Section 141 [215 ILCS 5/141] sets the standards for their approval. The rule adds nothing to the requirements and standards contained in these statutes and was, therefore, repealed.

Rule 806 (Derivative Instruments) was amended effective March 15, 2001. Sections 126.18 and 126.31 of the Illinois Insurance Code [215 ILCS 5/126.18 and 126.31] prohibit insurers from using derivative instruments for replication and synthetic asset transactions until “the Director promulgates reasonable rules that set forth methods of disclosure, reserving for risk based capital, and determining the asset valuation reserve for these investments.” The NAIC has adopted changes to the annual statement blank, specific accounting rules, and specific requirements for risk based capital treatment of derivatives used for replication transactions. Our regulatory requirements use each of these components. The proposed amendment to Part 806 lifts the prohibition against the use of derivative instruments for replication and synthetic asset purposes.

Rule 1451 (Variable Contract Rule) was amended effective March 5, 2001. Part 1451.50(b) requires insurers to file with the Department the effective prospectus that is applicable to variable contracts issued in Illinois. Historically, the Department has never found reason to refer to the prospectuses and so to save the time and the cost to microfilm and store the prospectuses, the Department is eliminating that filing requirement. Additionally Section 1451.50(d) will be added requiring insurers to notify the Department of the effective date and file number that the Securities and Exchange Commission has assigned the applicable variable contract before the Department can approve such contract. These amendments will also more accurately reflect the Department’s examination requirements for obtaining a variable contract producer’s license.

Rule 2008 (Minimum Standards for Individual and Group Medicare Supplement Insurance) was amended effective June 18, 2001, to bring Illinois’ regulation into compliance with federal standards contained in Section 1882 of the Social Security Act governing Medicare supplement insurance. Compliance is necessary to retain certification by the Secretary of Health and Human Services.

Rule 3119 (Pre-licensing and Continuing Education Requirements) was amended May 3, 2001, to implement the two-year renewal cycle for continuing education requirements of insurance producers that were included in P.A. 91-234, effective January 1, 2000. The Department is also allowing providers to use the NAIC Midwest Zone Form for certification purposes pursuant to the requirements found in Section 3119.30(a) of this Part.

In addition to minor housekeeping changes and the need for some clarification of standards, the Department is repealing Exhibits A, B, C and D at this time. Exhibits A and B are now outdated and have since been revised and posted to the Department's website at: www.state.il.us/ins/EduProviderInfo.htm. The Department makes Exhibits C and D available in electronic format to continuing education providers upon registration.

Rule 4002 (Personal Information & Privacy Protection) was adopted July 1, 2001, to create a regulatory framework by which the regulated community should be in compliance with the provisions of the Gramm-Leach-Bliley Act and the laws of other states that have adopted the National Association of Insurance Commissioners (NAIC) Model Act concerning privacy of financial information. Specifically, the proposed rule sets forth the prohibitions of sharing non-public financial information with a non-affiliated third party and provides notice requirements to the consumer of the regulated entity's privacy policies and practices concerning such information.

Rule 1410 (Modified Guaranteed Annuity (MGA) Contracts) was amended June 4, 2001, to correct a discrepancy between the Department's regulation and the NAIC model.

Rule 2003 (Definitions of the Terms "Noncancellable", "Noncancellable and Guaranteed Renewable" and "Guaranteed Renewable") was amended effective July 30, 2001, to address the changes in law resulting from the adoption of the Illinois Health Insurance Portability and Accountability Act (HIPAA) [215 ILCS 97] and to clarify the difference between advertising a product as guaranteed renewable versus the treatment given under HIPAA.

Rule 2019 (Minimum Benefit Standards for Diabetes Coverage) was adopted effective August 30, 2001, to address confusion on how to interpret coverage for durable medical equipment and pharmaceuticals/supplies under Section 356w of the Illinois Insurance Code. This new rule will clarify coverage concerns related to the same coverage, deductible, copayments and coinsurance for durable medical equipment and pharmaceuticals/supplies.

Rule 5425 (Managed Care Dental Plans) was adopted effective August 30, 2001, to implement the Dental Care Patient Protection Act. The rule sets forth guidelines for the formation of an advisory committee; requires the filing and approval of a summary description and grievance procedure for managed care dental plans; and also identifies the point of service plan filing requirements.